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SUBJECT U.S. Government Involvement in Nicaragua

CHARLAYNE HUNTER-GAULT: Our lead focus segment tonight is about Nicaragua and what, if any, role the U.S. Government is or should be playing in the fight against the Sandinista government in Managua.

In an interview on CBS's 60 Minutes Sunday night, Eugene Hasenfus, the captured American pilot who went on trial today, said he believed he was working for the CIA, but said he did not know who was running the supply operation for the anti-Sandinista rebels based in El Salvador.

And over the weekend, Assistant Secretary of State Elliott Abrams again denied American involvement, but said the information to verify his denial had to remain confidential. But two members of Congress who saw the information said the U.S. may have violated a ban on aid to the Contras.

We're going to get two views of this from two former CIA officials. First, we turn to David MacMichael, who was an estimates officer on the senior staff of the CIA from 1981 to 1983. He is now a senior fellow on the Council on Hemispheric Affairs, a Washington organization monitoring human rights and political developments in Central America.

Mr. MacMichael, Mr. Hasenfus has probably already gone on trial. I think he already has today. He thinks, or he said he thinks he works for the CIA. What, if any, obligation does the U.S. Government have in helping him, defending him?

DAVID MACMICHAEL: Well, just the same obligation it has any other United States citizens who's caught up in the same unfortunate situation. Initially, Mr. Hasenfus was in the

protected category under the Geneva Convention. And then, as is provided under Article 5, the government made a decision that he's to be treated in the general category of spy, saboteur, or attacker of the national security, and that he be tried under the laws of the country.

HUNTER-GAULT: Now, to protect the category of Article 5 of the Geneva Convention means that he was what?

MACMICHAEL: Well, Article 3, that would put him in the protected category. And that meant that he should have been treated essentially as a prisoner of war until a determination of his status was made, and has now been made.

HUNTER-GAULT: All right. You're saying that he is entitled to the protections of any U.S. citizen. But if he were in fact a CIA agent, would there be a different kind of expectation of the U.S. Government in his defense?

MACMICHAEL: Well, no, not really. I mean, as I say, I'll just repeat this statement. He is entitled to all the protections that the United States Government can offer to one of his citizens who happens to get caught in a violation of criminal law in another country. And principally, that insists of insuring that the basic and minimum human rights standards which apply to a person in that category are met and that due process according to the laws of that country are met.

HUNTER-GAULT: Do you think that the fact that he's made the kinds of statements he has made, like last night on 60 Minutes and elsewhere, does that make it harder for the U.S. Government to help him?

MACMICHAEL: The answer to that is yes.

HUNTER-GAULT: Why is that?

MACMICHAEL: Well, I mean he's essentially admitted to taking part in activities which are in plain violation of Nicaragua's rights, let's say. He's taken part -- let us say that he were a Nicaraguan who had been caught in dropping military supplies to an armed group inside the United States. What would the status of that person be? He'd be treated as a criminal.

HUNTER-GAULT: Well, there seems to be some dispute between Secretary Abrams and at least two members of Congress over the evidence that's been offered. I mean what do you glean from this dispute? I mean all of the information is supposed to be classified, right?

MACMICHAEL: Well, we often classify information in order not to have it get proper evaluation by otherwise informed sources. And I'll say, just generally, two things.

Different people can look at the same evidence and draw different conclusions from it. I mean that is clear. It is always subject to interpretation.

Secondly -- and I think anyone can say this with absolute conviction -- is that Mr. Abrams has been and continues to be absolutely contemptuous toward the members of Congress and toward the American people by taking the attitude he does as to what they're entitled to know and what he's going to tell him.

HUNTER-GAULT: You mean -- so you think that there things that he has seen, that the members of Congress had seen, that the American public is entitled to know about?

MACMICHAEL: Oh, I am absolutely certain.

HUNTER-GAULT: And wha would that be?

MACMICHAEL: Well, not having seen it, I couldn't speculate on what, you know, pieces of information there would be. But, of course, you know, for anyone over ten years old who's given up his belief in the tooth fairy, you know, it's very hard to look at a situation where a United States-manufactured aircraft, not too long ago in possession of the United States Government, flown by a United States firm based in the United States, with a crew made up of United States citizens, you know, flies over Nicaragua and crashes carrying a load of lethal weaponry, which is prohibited under the law as it existed up until the day before yesterday for the United States to provide to Nicaragua, that it was not in some way controlled by elements of the United States Government. Not necessarily the CIA. That's not the important thing.

HUNTER-GAULT: But the government.

MACMICHAEL: But the Government of the United States.

HUNTER-GAULT: And you think that's possible -- possibly includes...

MACMICHAEL: Not only possible, I think it's improbable it is not so.

HUNTER-GAULT: No, but I mean it's possibly included in that information that these congressmen and Secretary Abrams are sparring about.

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MACMICHAEL: I think that the ties to areas in the United States Government will probably be made quite clear by the evidence which is classified and not revealed to the public. Yes.

HUNTER-GAULT: All right. Thank you. We'll be back.

ROBERT MACNEIL: For another view, we go to Constantine Menges, who was the CIA's national intelligence officer for Latin America during the years that Mr. MacMichael was an estimates officer. In 1983 Mr. Menges joined the National Security Council and served there for three years. He's now with the Fund for an American Renaissance, a Washington think tank.

Mr. Menges, how do you respond to the last thing that Mr. MacMichael just said, that the ties to the American Government are very probably contained in the classified information that is not being released?

CONSTANTINE MENGES: I believe the United States Government is telling the truth about its lack of involvement in this effort by private citizens to help the armed democratic resistance in Nicaragua. I think Mr. MacMichael and I think members of the press who draw the conclusion that perhaps knowledge or past associations with the United States Government means current government responsibility are basically making an associational bridge which I think is inaccurate.

I know that for five years, as a member of the Administration, of the Reagan Administration, we endeavored consistently to tell the truth about the events in Central America. I think the historical record bears that out. And I believe the Administration is today telling the truth, that it is not involved.

MACNEIL: You say they're making an associational bridge that is not justified. How do you explain part of that bridge, which a number of the newspaper accounts have made, that the same formerly government-owned American plane that Mr. MacMichael just referred to, flown by Americans, landed and took off from air bases which are either highly classified places or very strategic places owned by the U.S. Government in this country or operated in El Salvador and Honduras? How could any civilians with no connection with the U.S. Government use such air bases?

MENGES: Well, as the New York Times mentions today, the company in question has \$11 million, apparently, in military contracts. An airplane can be lent and contracted to many people. It doesn't -- it can fly on one day a mission for the United States Government carrying humanitarian aid, on another day it can fly a group of high school students who are visiting

their basketball team, and on another day it can be flying military cargo.

So, the very fact -- in act, I would draw exactly the opposite inference from Mr. MacMichael. Southern Air Transport was known in the 1960s to be CIA-affiliated. Therefore, it would be every reason not to use that organization at all if there were any U.S. Government involvement.

But most importantly, I think these are associational inferences which simply are not backed up by any of the facts. And I believe that what the senators were, what the two members of Congress were speculating about today really has to do with the question of the Administration's knowledge of the private activities. I did not read in the press any inference that the Administration was directly involved, just that the Administration knew more than it was saying. And Mr. Abrams said, yes, there were more things they knew about these private activities, and that he told the cognizant members of Congress what the Administration knew. That's a question of sources and methods.

MACNEIL: You don't think the whole situation, as piece-by-piece of this evidence comes out, is straining credulity a bit, our credulity, the public's credulity?

MENGES: No, I don't. Because the fact that private U.S. citizens have been helping the armed democratic resistance has been known for a long time. As you know, thousands and thousands of private American citizens have been helping the communist government of Nicaragua. U.S. Government officials know about those activities, too. The fact that they know about the activities doesn't mean that they're involved.

If, let's say, a church group in the United States had sent down medical supplies on one of those same airplanes six months ago, I wouldn't think they'd be involved in the arms supply activity.

So, I don't think it strains credulity at all.

MACNEIL: But you're saying the U.S. Government did know, then, about these, or the inference is that the U.S. Government did know about this activity of taking weapons, but viewed it in the same light as some other Americans helping the Sandinista government? Is that it?

MENGES: I said that the fact of knowledge does not imply responsibility. This is, in a sense, guilt-by-knowledge, as opposed to guilt-by-association from the 1950s. Knowledge does not imply responsibility or direction. Knowledge is knowledge.

I don't know which officials of the U.S. Government knew what about the private deliveries, except in broad terms. Obviously, informed members of the U.S. Government knew there were groups trying to be helpful, because the press often reported on that effort, as the press has from time to time reported on the thousands of American citizens helping the communist government of Nicaragua.

MACNEIL: Well, thank you.

HUNTER-GAULT: Mr. Menges -- I'm sorry -- Mr. MacMichael, what about that, that knowledge doesn't necessarily, in this particular instance, imply direct involvement? Your reaction to that?

MACMICHAEL: Well, Mr. Abrams was quoted in the New York Times a week ago as saying that this had not gone on with merely a wink and a shrug by the United States Government, he says. "Hell!" he said, "We approved it. We think it's just fine."

Now, this goes beyond, I should think, merely knowing it, and it implies some assistance to keeping it going.

HUNTER-GAULT: What about that, Mr. Menges?

MENGES: I disagree. I don't think it implies assistance. What Mr. Abrams was doing was being very candid, as President Reagan has been candid. He's been saying the President for two years has been trying to have congressional prohibitions against providing military aid to the armed democratic resistance in Nicaragua lifted. This is obviously the policy of the United States Government. And the reason for doing that, of course, is because Nicaragua is the aggressor country and it has been attacking its neighbors since 1979, and this is a defensive response.

So, what Mr. Abrams was saying, simply, was that of course, since President Reagan was trying to have the United States Government provide this aid, U.S. officials who might know of these private efforts obviously felt that was the right thing to do, since that is what we wanted our government to do.

That does not imply, in any way, shape or form, in my judgment, U.S. Government involvement in the private actions.

HUNTER-GAULT: But where do you draw the line?

MACMICHAEL: I will tell you where you draw the line, Charlayne. The United States Code, the so-called Neutrality Act, reads: "Whoever within the United States knowingly begins or sets on foot or provides or prepares a means or furnishes the

money for or takes part in any military or naval expedition or enterprise to be carried on from thence against the territory or dominion or any state or any colony or district [unintelligible] people with whom the United States is at peace shall be fined not more than \$3000 or imprisoned for not more than three years, or both."

Now, the President of the United States, you see, takes an oath when he takes office faithfully to execute the laws of the United States. That's one of the laws. He can't run around approving it.

Now, you'll also note that this refers to actions against, hostile actions. It does not refer to friendly or supporting actions. So to equate people who send medical supplies, let us say, to the democratically elected government of Nicaragua, to the nation of Nicaragua, are not violating the Neutrality Act. People who send arms into that country to attack that government are violating the Neutrality Act. They're also violating the Arms Control and Export Acts, which are also supposed to be enforced by the Federal Government.

MENGES: Well, first of all, the Neutrality Act is not binding on the United States Government. The United States Government is not bound by that. Private citizens are. And certainly Mr. MacMichael is correct. Any citizens who from the territory of the United States are doing that come under the terms of the act, and the United States Government will have to see what it does.

HUNTER-GAULT: But didn't some of these planes originate in the United States?

MENGES: The question is where the military cargo originates. If private citizens move to another country and from there engage in these activities, they're not acting from the territory of the United States, and they're not bound by the laws of the United States. If you're visiting...

MACMICHAEL: Or furnishing some money for?

MENGES: If you're visiting Paris, for example, you're not bound by U.S. law. You're bound by French law.

HUNTER-GAULT: What about the point that he raises now, providing the money for it coming from the United States for these purposes? Even if the planes, say, originated in El Salvador, or whatever, if the money originates in the United States.

MENGES: I'm not an attorney. I think that's an issue that would have to be settled by the courts. I...

MACMICHAEL: Well, then why don't we go to the courts?

MENGES: Well, of course, that's up to the -- that's up to the United States authorities to decide. But I think the important point here is that these are private citizens acting for what they consider to be the important goal of defending democracy in Central America, since this communist government of Nicaragua, which, by the way, does not have a freely elected government. It was a Soviet-style election in November 1984.

MACMICHAEL: Not so ruled by almost all international observers, of whom I was one.

MENGES: In which the Sandinistas basically controlled the whole outcome from start to finish, and have violated their commitment to the OAS to have real elections.

HUNTER-GAULT: All right. I think that's another argument, though, which we'll no doubt be having at another time.

But let me just ask you this. I mean the bill approving military aid to the Contras was signed this past Saturday before Congress adjourned. I mean doesn't make all of this argument moot anyway?

MACMICHAEL: It does indeed, Charlayne, to our very great shame, because these actions which were signed into law by the President of the United States are in direct opposition to the order handed down by the International Court of Justice, the supreme authority of the United Nations, directing the United States not to do these things.

You see, we don't abide by international law, as we have not been abiding by our own laws. A peculiar spectacle.

HUNTER-GAULT: What's your reaction to that, Mr. Menges?

MENGES: I disagree. In fact, international law permits states to defend themselves and their allies from attack. Nicaragua began its armed subversion against its neighbors in 1979.

MACMICHAEL: This argument was rejected in no certain terms by the International...

MENGES: Mr. MacMichael, I believe I'm speaking.

MACMICHAEL: I understand that, but you're not making sense.

MENGES: Nicaragua began armed subversion in September



of 1979 and it had attacked its neighbors. Therefore they have the right to defend themselves and to get help to do so.

The Security Council of the United Nations has the authority in matters of the use of force. We, the United States Government, reject the authority of the International Court on this type of issue.

HUNTER-GAULT: Well, all right. I'm sorry we have to leave it on that point. We'll come back to it another time, perhaps.